

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1381 OF 2004
WITH
CIVIL APPLICATION NO. 4197 OF 2004

G. B. Mishra ..Appellant

versus

Mankeshwar Mechanical Works

& ors. ..Respondents

Mr. O. R. Tiwari for the Appellant.

Mr. S. G. Anne, Sr. Counsel with S.A. Ahmed & Mr.
Dube for the Respondents No. 1 and 3.

CORAM : D. G. DESHPANDE, J.

DATE : 8TH JUNE, 2005

P.C. :

1. Heard Advocate for the Appellant and the Respondents No. 1 and 3.

2. Plaintiff - Appellant had filed a suit for declaration that he is entitled to be admitted as an independent partner being one of the legal heirs of the original deceased partner and he is entitled to all the rights etc. in the partnership firm named as M/s. Shri Mankeshwar Mechanical Works and of its sister concern. Plaint of the plaintiff came to be rejected by the court under Order VII Rule 11 of the

Code of Civil Procedure on the ground that there is no cause of action. Counsel for the Respondent Nos. 1 and 3 pointed out that the partnership firm has been dissolved by the order of this Court and assets are being distributed and accounts are being taken pursuant to that order. The plaintiff - appellant had no legal right to claim any of the reliefs and therefore the trial court rightly rejected the plaint.

3. I do not find any fault in the said order. If at all the plaintiff is claiming any right as legal heir of the partner i.e. the right which he gets under the Hindu Succession Act, he will be at liberty to file separate suit. There is no merit in this appeal. The same is dismissed along with Civil Application. Certified copy expedited.

8.06.2005

(D.G. DESHPANDE, J.)